

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ADOLFO SIERRA-MENDEZ,

Defendant.

CASE NO. CR03-0430C

ORDER

This matter has come before the Court on the Ninth Circuit's limited remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005). (See Dkt. No. 46.) In *Ameline*, the Ninth Circuit directed district courts to answer the threshold question of whether the sentence imposed on a defendant would have been materially different had the court been aware that the Sentencing Guidelines were advisory, rather than mandatory. *Ameline*, 409 F.3d at 1084. The scope of the initial inquiry permitted by *Ameline* does not authorize the Court to address the question of whether Defendant was eligible for the safety valve. *Id.* at 1085 (explaining that the court is allowed to take a fresh look at the facts in *resentencing* the defendant, *after* and if the threshold question is answered in the affirmative).

In the case at bar, Defendant was subject to a mandatory minimum sentence of sixty months. The Guidelines calculations resulted in a sentencing range of 57 to 71 months. Because of the congruence

1 between the Guidelines calculation and the mandatory minimum of 60 months, the Court did not increase
2 the length of Defendant's sentence. Therefore, whether the Guidelines were advisory or mandatory had
3 no effect on Defendant's sentence. Accordingly, the Court finds that the sentence imposed on Defendant
4 would not have been materially different.

5 SO ORDERED this 1st day of February, 2006.

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8 UNITED STATES DISTRICT JUDGE
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